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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,357	12/19/2001	Nathan D. Cahill	83706THC	7854

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EXAMINER

ROSARIO, DENNIS

ART UNIT PAPER NUMBER

2621

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/025,357

Applicant(s)

CAHILL ET AL.

Examiner

Dennis Rosario

Art Unit

2621

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 15 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-28.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: See attached Response to Amendment.

JOSEPH MANCUSO  
PRIMARY EXAMINER

Continuation of 3. NOTE: Claims 3,4,5 have no antecedent basis for "aspect ratio L:H".

***Response to Amendment***

1. The amendment was received on July 15, 2005. Claims 1-28 are pending.

***Response to Arguments***

2. Regarding claim 1, applicant's arguments, on page 9, last paragraph, lines 1,2, filed 07/15/2005, have been fully considered but they are not persuasive which states:

"Burt et al. does not teach automatic selecting of the cropping region."

- However, Burt et al. does teach automatic selecting of the cropping region in col. 2, lines 32-34 which states:

"The selection process automatically selects images ['or portions thereof' in col. 2, line 33]...and may include...cropping functions [for the portions thereof]."

;thus, the selection process as shown in figure 5, num. 302 automatically selects portions of an image or the claimed cropping region using the above mentioned cropping function.

3. Regarding figure 5 of Burt et al., applicant's arguments, on page 9, last paragraph, lines 3-5, filed 07/15/2005 have been fully considered but they are not persuasive which states:

"...the rejection correctly argues that, in Burt et al., there are teachings that step 502 of Figure 5 can be automatic and incorrectly argues that there are teachings that step 506 can be automatic."

;however, there is a teaching that step 506 has a corresponding automatic teaching as mentioned col. 2, lines 32-34 which states:

"The selection process [as shown in fig. 3, num. 302] automatically selects images ['or portions thereof' in col. 2, line 33 and in col. 10, lines 51,52]...and may include...cropping functions [for the portions thereof]."

and corresponds to col. 6, lines 14,15 which states:

"The selection process may perform...cropping to limit the size of the mosaic."

Thus, fig. 5, num. 506: SELECT REGION OF INTERSET SIZE AND SHAPE has a corresponding counterpart that automatically selects portions of an image using cropping in col. 6, lines 14,15.

In addition, regarding figure 5, Burt et al. states, "The following discussion assumes the selection functions are user defined" in col. 10, lines 57,58. Which suggests that the selection functions or a cropping function is also automatically defined using fig. 3, num. "302" in col. 6, line 10 in order to "limit the size of the mosaic" in col. 6, line 15.

4. Regarding figure 5 of Burt et al., applicant's arguments, see page 10, lines 11-13:

"These quotes suggest that automatic predetermination of the selection functions, like user selection, automatically picks the branch(es) used. There is no teaching or suggestion of more than that."

filed 7/15/2005, with respect to fig. 5,num. 502 have been fully considered and are persuasive.

5. Regarding figure 5 of Burt et al., applicant's arguments, see 10, lines 20-22:

"This language does not teach or suggest automatic control of the cropping function, but rather teaches that the user defines the associated parameters once the branch is picked."

filed 7/15/2005, with respect to fig. 5,numerals 502-504 have been fully considered and are persuasive.

6. Regarding figure 5 of Burt et al., applicant's arguments, see page 10, lines 31-34:

"There is no need for step 520 in a fully automatic process. The presence of another user step in Figure 5 supports the implication that the automatic predetermination of the selection functions is limited to picking the branch(es) for the user, who then defines associated parameters.

filed 7/15/2005, with respect to figure 5, step 520 have been fully considered and are persuasive.

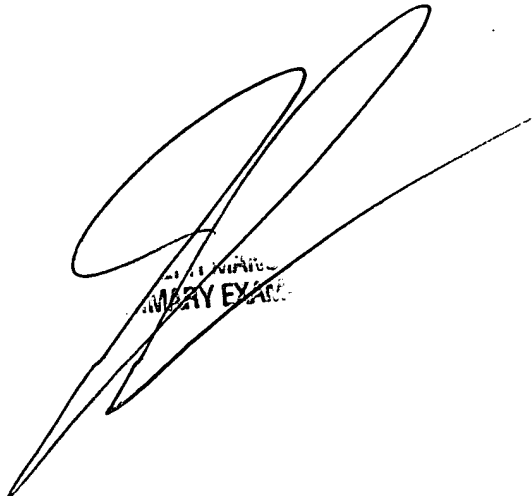
Regarding paragraphs 3-6, the subject matter of which is directed towards figure 5 which is described in terms of a user input device for performing associated operations and corresponds to fig. 3,num. 302; however, there is an alternative automatic counterpart that performs the same functions of fig. 5 without user input as mentioned in col. 2, lines 29-35 and in col. 6, lines 9-17 in terms of fig. 3,num. 302 performing associated operations without user input.

7. Regarding claims 3-5, applicant's arguments filed 7/15/2005 on page 12, 2<sup>nd</sup> paragraph to last paragraph:

"The rectangle indicated by 'MODE 1 640 X 480 IMAGE' in Figure 5a of Burt et al. is not the largest in area cropped digital region available in Figure 5a having the same aspect ratio."

;however, the rectangle indicated by 'MODE 1 640 X 480 IMAGE' in Figure 5a of Burt et al. is the largest in area cropped digital region available in Figure 5a having an (emphasis added) aspect ratio.

Due to a lack of antecedent basis for the claimed "aspect ratio", claims 3-5 are broad enough to reject using Burt et al.; however, if the claimed aspect ratio, for example in claim 3 lines 5,13 and 19, are all the "same" as argued in the remarks on page 12, 5<sup>th</sup> line from the bottom, then claims 3-5 may overcome the Burt et al. reference and requires a new search and consideration for claims 3-5.

A handwritten signature in black ink, consisting of a large loop and a long diagonal stroke, is written over a rectangular stamp. The stamp contains the text "MARY EX" in a bold, sans-serif font, with "MARY" on the top line and "EX" on the bottom line. The signature is written in a cursive style, with the loop of the 'M' and the end of the diagonal stroke extending beyond the stamp's boundaries.